

DECISION – WALPOLE ZONING BOARD OF APPEALS CASE NO. 20-16

APPLICANT

John M. Corcoran & Co., LLC

LOCATION OF PROPERTY INVOLVED

95 West Street

Walpole Assessors Map 33, Parcel 21-1

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APPLICATION

A SPECIAL PERMIT under Section 5-B (Schedule of Use Regulations): 4 (Business): w. (Automobile parking lots for which a fee is charged) of the Zoning Bylaw to allow a commercial parking garage containing approximately 51,345 +/- s.f. and 146 parking spaces all as shown on the plan entitled: "Site Development Plans for 95 West Street, Walpole, MA" dated November 11, 2016, drawn by Allen & Major Associates, Inc., 100 Commerce Way, Woburn, MA 01888, as may be amended.

A SPECIAL PERMIT under Section 8 (Parking Regulations): 4 (Baseline Parking Calculation): C. of the Zoning Bylaw to allow less than the minimum parking required (235 spaces where 384 are required) as shown on the plan entitled: "Site Development Plans for 95 West Street, Walpole, MA" dated November 9, 2016 drawn by Allen & Major Associates, Inc., 100 Commerce Way, Woburn, MA 01888, as may be amended.

A VARIANCE from Section 6 (Dimensional Regulations): Table 6-B-1 (Table of Dimensional Regulations) of the Zoning Bylaw to allow a maximum building height of sixty-four feet (64') where fifty-two feet (52') is allowed all as shown on the plan entitled: "Site Development Plans for 95 West Street, Walpole, MA" dated November 9, 2016 drawn by Allen & Major Associates, Inc., 100 Commerce Way, Woburn, MA 01888, as may be amended.

A VARIANCE from Section 8 (Parking Regulations): 8 (Parking Lot Design): A (Parking Space and Aisle Dimensions): Table 8.8.A.1 (Parking Space and Aisle Dimensions) to allow a parking space depth of eighteen feet (18') where eighteen and ½ feet (18.5') are required and a minimum drive aisle width of twenty-four feet (24') where twenty-six feet (26') are required all as shown on the plan entitled: "Site Development Plans for 95 West Street, Walpole, MA" dated November 9, 2016 drawn by Allen & Major Associates, Inc., 100 Commerce Way, Woburn, MA 01888, as may be amended.

On December 7, 2016, continued to February 15, 2017, March 15, 2017, April 19, 2017, and May 3, 2017, a Public Hearing was held in the Main Meeting Room of Town Hall for the purpose of receiving information and voting upon a decision as to granting of the Special Permits and Variances requested. The members who were present and voting:

Matthew Zuker, Chairman
Craig Hiltz, Clerk
James DeCelle, Member
Mary Jane Coffey, Member

**PARKING FOR A FEE
VOTE OF THE BOARD:**

A motion was made by Mr. Hiltz and seconded by Mr. DeCelle, that the Board grant John M. Corcoran & Co., LLC a Special Permit under Section 5-B (Schedule of Use Regulations): 4 (Business): w. (Automobile parking lots for which a fee is charged) of the Zoning Bylaw to allow a commercial parking garage containing approximately 51,345 +/- s.f. and 146 parking spaces all as shown on the plan entitled: "Site Development Plans for 95 West Street, Walpole, MA" dated November 11, 2016, last revised 04-14-2017, drawn by Allen & Major Associates, Inc., 100 Commerce Way, Woburn, MA 01888.

The vote was 4-0-0 in favor (Zuker, DeCelle, Hiltz, Coffey voting); therefore, the Special Permit under Section 5.B.4.w is hereby granted, subject to the following conditions:

1. The first-floor commercial space shall be divided into approximately 53,765 +/- s.f. of parking garage and 14,120 +/- s.f. of space labeled Amenity Space / Commercial / Retail and Leasing Center / Amenity Space / Commercial Retail Space all of which shall be considered to be commercial uses.
2. A minimum of 5,500 s.f. of the ground floor space labeled Amenity Space / Commercial / Retail and Leasing Center / Amenity Space / Commercial / Retail Space, exclusive of the area of Commercial Parking garage available for a fee, shall be reserved for leasing to 3rd parties to operate commercial/retail businesses for public use therein.
3. A minimum of 117 spaces within the garage shall be utilized for residential tenant parking. This parking shall be on a fee basis. Note: all 146 spots within the garage are for fee parking and shall be considered to be a use under Section 5-B.4.w.
4. The Applicant shall provide 235 spaces for the building use. These spaces shall be reserved for the building use and not available for third party (e.g. MBTA parking) use.
5. If the Applicant desires to make a change in the parking allocations or residential/commercial space ratio it shall apply to the Board for a modification of this Special Permit and related conditions.

REASONS FOR DECISION

It is the finding of the Board that the Applicant was able to meet the requirements of Section 5.B.4.w to allow the requested Automobile parking lot for which a fee is charged. The Board also finds that the parking garage and spaces are a commercial use and that the automobile parking lot for which a fee is charged suite is in character with and follows the intent of, the Central Business District. Accordingly, the Board has determined that the Special Permit requested is warranted.

FURTHER FINDINGS

Section 2: Administration, 2. Special Permits, B. Finding and Determination required that:

(1) Prior to granting a special permit, the SPGA shall make a finding and determination that

the proposed use, building, structure, sign, parking facility or other activity which is the subject of the application for the special permit:

- (a) does and shall comply with such criteria or standards as shall be set forth in the section of this Bylaw which refers to the granting of the requested special permit;**

The Board finds that the charging a fee for parking in the proposed parking garage complies with all of the criteria of By-Law as set forth below. Accordingly, the Board finds this condition satisfied.

- (b) shall not have vehicular and pedestrian traffic of a type and quantity so as to adversely affect the immediate neighborhood;**

The Board finds that the Applicant has provided 235 parking spaces and asked for the appropriate relief from the Zoning Bylaw in order to provide parking for the residential and commercial uses as required by the Zoning Bylaw. In addition, the Applicant is proposing a commercial garage which will contain one hundred forty-six (146) parking spaces that will be rented either by hour, day, or month. This garage is completely screened from view by the commercial uses on the ground floor of the building. The spaces available in the garage may be used by commuters, residents, employees, or customers of the MBTA, the Residences at Walpole Station or its commercial/retail tenants, or the Walpole Station Business Complex. The garage, in and of itself, is not expected to have any traffic rather it provides a safe and convenient place for those who are already coming to the site to park. For further specifics please see the plan entitled: "Site Development Plans for 95 West Street, Walpole, MA" dated November 9, 2016 last revised 04-14-2017, drawn by Allen & Major Associates, Inc., 100 Commerce Way, Woburn, MA 01888, as may be amended; the Parking Demand Assessment dated July 2016 and Updated Parking Demand Assessment dated March 29, 2017, by Vanasse & Associates, Inc. submitted with the Application as well as the peer review conducted by the Town prior to filing; and the Traffic Impact and Access Study dated July 2016 prepared by Green International Affiliates, Inc, as well as the peer review conducted by the Town prior to filing. As such, this criterion is satisfied.

- (c) shall not have a number of residents, employees, customers, or visitors, so as to adversely affect the immediate neighborhood;**

The Board finds that as stated above, other than the garage attendants, the parking garage will not have any dedicated residents, employees, customers or visitors. Rather the garage provides additional parking options for the people already coming to the area to live, work, or commute. Accordingly, the Board finds that there will not be any adverse effect on the neighborhood and this condition is satisfied.

- (d) shall comply with the dimensional requirements applicable to zoning district in which the premises is located, including, without limitation, the applicable lot coverage and buffer zone requirements in Section 5-G;**

The Board finds that the proposed development conforms to all dimensional regulations of the Walpole Zoning By-Law except for building height, parking stall depth, and parking aisle width. The Applicant has petitioned the Zoning Board of Appeals for the applicable Variances and Special Permits to allow the project to be built as shown on the plans entitled, "Site Development Plans for 95 West Street, Walpole, MA" dated November 9, 2016 last revised

04-14-2017, drawn by Allen & Major Associates, Inc., 100 Commerce Way, Woburn, MA 01888. Said petition is being heard as part of the present case before the Board. Therefore, the Board is satisfied that this condition is met.

- (e) shall not be dangerous to the immediate neighborhood of the premises through fire, explosion, emission of wastes, or other causes;**

The Board finds that that most of the area to be occupied by the garage is currently a parking lot. Containing the parked cars inside and underneath a building allows the garage to better monitor and control the parked cars and provide safety measures that are otherwise unavailable in an open lot. As such, the garage is not expected to be dangerous to the immediate neighborhood through fire, explosion, emissions of waste or other causes and this condition is satisfied.

- (f) shall not create such noise, vibration, dust, heat, smoke, fumes, odor, glare or other nuisance or serious hazard so as to adversely affect the immediate neighborhood;**

The Board finds that the garage use does not in itself create any vibration, dust, heat, smoke, glare or other nuisance. The fumes and noise generated by the cars parking in the garage will be mitigated through proper ventilation. Moreover, situating the parked cars within a garage versus parking on an open lot mitigates noise, glare, and other nuisances. As such, the garage better protects the immediate neighborhood from these nuisances. Therefore, this condition is satisfied.

- (g) shall not adversely effect the character of the immediate neighborhood; and**

The Board finds that the proposed garage will be located behind the commercial space of the new building and therefore screened from West Street (south). It is also screened to the north and west by the elevation of the MBTA station and track. On the east, it will for the most part be screened by the business buildings at Walpole Station. Additionally, the land is presently the site of two unused semi-derelict buildings. Therefore, replacing the same with an attractive commercial/residential facade and placing the garage behind and underneath the same will actually be an improvement to the neighborhood. Thus, this condition is satisfied.

- (h) shall not be incompatible with the purpose of the zoning Bylaw or the purpose of the zoning district in which the premises is located.**

The Board finds that Zoning Bylaw specifically allows commercial parking areas. Moreover, Section 8.8.C Structured Parking Facilities in the Central Business District specifically sets for criteria for structured parking within the CBD. The Applicant respectfully submits that the proposed parking garage meets the criteria of this Section and all other aspects of the Zoning Bylaw. Further, the additional parking provided by the garage to non-tenants/residents of Walpole Station increases access to the center of Town by providing additional parking to those people who drive to the center to frequent the downtown businesses. The Board finds that all of the aforesaid are in harmony with the purpose of the Central Business District and this condition is satisfied.

PARKING SPACE REDUCTION

VOTE OF THE BOARD:

A motion was made by Mr. Hiltz and seconded by Mr. DeCelle, that the Board grant John M. Corcoran & Co., LLC a Special Permit under Section 8 (Parking Regulations): 4 (Baseline Parking Calculation): C. of the Zoning Bylaw to allow less than the minimum parking required (235 spaces where 384 are required) as shown on the plan entitled: "Site Development Plans for 95 West Street, Walpole, MA" dated November 9, 2016 last revised 04-14-2017, drawn by Allen & Major Associates, Inc., 100 Commerce Way, Woburn, MA 01888.

The vote was 4-0-0 in favor (Zuker, DeCelle, Hiltz, Coffey voting); therefore, the Special Permit under Section 5.B.4.w is hereby granted subject to the following condition:

1. There shall always be 235 spaces available for the building, which shall be provided as follows:

- Up to 146 of these spaces may be provided within the parking garage on the ground floor of the building;
- Up to 52 may be provided in surface spaces on the project parcel; and
- The remaining spaces required to meet the parking requirement shall be located in the West Street Lot (currently referred to as Lot 2 and Lot 5 on VAI study).

Prior to issuance of a building permit, the Applicant shall provide evidence of its right to park on the West Street Lot either through an Easement recorded at the Norfolk Registry of Deeds or other documentation acceptable to the Building Commissioner/Zoning Enforcement Officer, that it has rights to the requisite number of spaces in the West Street Lot to maintain the balance of the required 235 spaces off-site.

2. A minimum of 117 spaces within the garage shall be utilized for residential tenant parking. This parking shall be on a fee basis.
3. The Applicant shall provide 235 spaces for the building use. These spaces shall be reserved for the building use and not available for third party (e.g. MBTA parking) use.
4. If the Applicant desires to make a change in the parking allocations or residential/commercial space ratio it shall apply to the Board for a modification of this Special Permit and related conditions.

REASONS FOR DECISION

It is the finding of the Board that the Applicant was able to meet the requirements of Section 8.4.C to allow the requested reduction in minimum parking spaces required (235 where 384 are required). The Board finds based on ITE data and actual observed demand at similar projects that the proposed mixed use building will be adequately served by 235 spaces. Accordingly, the Board has determined that the Special Permit requested is warranted.

FURTHER FINDINGS

Section 2: Administration, 2. Special Permits, B. Finding and Determination required that:

(1) Prior to granting a special permit, the SPGA shall make a finding and determination that the proposed use, building, structure, sign, parking facility or other activity which is the

subject of the application for the special permit:

- (a) does and shall comply with such criteria or standards as shall be set forth in the section of this Bylaw which refers to the granting of the requested special permit;**

The Board finds that the requested reduction from 384 to 235 required parking spaces complies with all of the criteria of By-Law as set forth below. Accordingly, the Board finds this condition satisfied.

- (b) shall not have vehicular and pedestrian traffic of a type and quantity so as to adversely affect the immediate neighborhood;**

The Board finds that the Parking Demand Assessment dated July 2016 and the Updated Parking Demand Assessment dated March 29, 2017, prepared by Vanasse & Associates, Inc. submitted with the Application shows that there is no data to support the requirement of 384 parking spaces for this development. Using ITE data and experience with other mass-transit oriented mixed-use buildings, the anticipated need for parking is 235 spaces. This conclusion was reviewed by the Town's peer reviewer and corroborated prior to filing. Moreover, as submitted during the public hearing data obtained from the MBTA's website, show that 66% of their 343 spaces are available on a daily basis. As such, there are on average 226 empty parking spaces in the MBTA lots. Also, based on 2013 parking data from LAZ parking, submitted during the public hearing, the usage of the various lots indicates that on average there are 87 empty spaces in the existing private parking lots operated by The Manzo Company. Accordingly, there will be no adverse effect to the immediate neighborhood in granting the requested relief. As such, this criterion is satisfied.

- (c) shall not have a number of residents, employees, customers, or visitors, so as to adversely affect the immediate neighborhood;**

The Board finds that the requested reduction in parking does not have any associated residents, employees, customers, or visitors. As such this criterion is not applicable. NOTE: as shown in the aforementioned Parking Demand Assessment, the requested number of spaces is adequate to service the anticipated demand of the proposed mixed use building.

- (d) shall comply with the dimensional requirements applicable to zoning district in which the premises is located, including, without limitation, the applicable lot coverage and buffer zone requirements in Section 5-G;**

The Board finds that the proposed development conforms to all dimensional regulations of the Walpole Zoning By-Law except for building height, parking stall depth, and parking aisle width. The Applicant has petitioned the Zoning Board of Appeals for the applicable Variances and Special Permits to allow the project to be built as shown on the plans entitled, "Site Development Plans for 95 West Street, Walpole, MA" dated November 9, 2016 last revised 04-14-2017, drawn by Allen & Major Associates, Inc., 100 Commerce Way, Woburn, MA 01888. Said petition is being heard as part of the present case before the Board. Therefore, the Board is satisfied that this condition is met.

- (e) shall not be dangerous to the immediate neighborhood of the premises through fire, explosion, emission of wastes, or other causes;**

The Board finds that the requested relief is asking for a reduction of required parking spaces which is not a use in and of itself nor will it generate any hazard or waste. Therefore, there is no danger to the immediate neighborhood through fire, explosion, emission of wastes, or other causes. Accordingly, this criterion is satisfied.

(f) shall not create such noise, vibration, dust, heat, smoke, fumes, odor, glare or other nuisance or serious hazard so as to adversely affect the immediate neighborhood;

The Board finds that the garage use does not in itself create any vibration, dust, heat, smoke, glare or other nuisance. The fumes and noise generated by the cars parking in the garage will be mitigated through proper ventilation. Moreover, situating the parked cars within a garage versus parking on an open lot mitigates noise, glare, and other nuisances. As such, the garage better protects the immediate neighborhood from these nuisances. Therefore, this condition is satisfied.

(g) shall not adversely effect the character of the immediate neighborhood; and

The Board finds the requested parking reduction provides adequate parking per the Parking Demand Assessment dated July 2016 prepared by Vanasse & Associates, Inc. and the conclusions of the assessment were validated by the Town's independent peer review. If the parking reduction is not granted, the Applicant expects that the area will have an excess of unused paved parking spaces. This situation is undesirable both from an aesthetic point of view as well as needlessly increasing impervious area immediately adjacent to the Neponset river. As such, the reduction in required parking enables the Applicant to develop the area in a manner more consistent with the immediate neighborhood and the center of town. Thus, this condition is satisfied.

(h) shall not be incompatible with the purpose of the zoning Bylaw or the purpose of the zoning district in which the premises is located.

The Board finds that Section 8.1 of the Bylaw states that "the intent of the Parking provisions is to encourage a balance between compact pedestrian-oriented development and necessary car storage." Given its location directly adjacent to Walpole Station and its proximity to the Downtown, the Applicant has designed the project to have 1.22 spaces per residential unit or 235 spaces in total. Further, the proposed parking arrangement is consistent with the provisions of Section 8.9 of the Bylaw in supporting the intent for the CBD as a "walkable, mixed-use environment". Accordingly, this condition is satisfied.

BUILDING HEIGHT VARIANCE VOTE OF THE BOARD

A motion was made by Mr. Hiltz and seconded by Mr. DeCelle, that the Board grant John M. Corcoran & Co., LLC a Variance from Section 6 (Dimensional Regulations): Table 6-B-1 (Table of Dimensional Regulations) of the Zoning Bylaw to allow a maximum building height of sixty-four feet (64') where fifty-two feet (52') is allowed all as shown on the plan entitled: "Site Development Plans for 95 West Street, Walpole, MA" dated November 9, 2016 last revised 04-14-2017, drawn by Allen & Major Associates, Inc., 100 Commerce Way, Woburn, MA 01888.

The vote was 4-0-0 in favor (Zuker, DeCelle, Hiltz, Coffey voting); therefore, the Variance from Section 6-B-1 is hereby granted, subject to the following conditions:

1. The Applicant shall work with the Community Development Director to ensure the building, as viewed from West Street, is in character with the Walpole Station Business Complex buildings that will remain along West Street and is visually consistent with the same, thus maintaining the historic manufacturing character of this portion of the CBD. The design of the building shall include, but is not limited to, appropriate window treatments, façade materials (such as brick), and other architectural elements as appropriate.
2. The aforesaid design shall be completed to the reasonable satisfaction of the Community Development Director.

REASONS FOR DECISION

It is the finding of the Board that the Applicant was able to meet the requirements of Section 2.3 to justify the requested height Variance. The Board finds that building height of sixty-four feet (64') is required due unique circumstances, a literal enforcement of the 52' height would cause undue hardship, and that the proposed building height does not cause a detriment to the public good or derogate from the intent and purpose of the Bylaw for the Central Business District. Accordingly, the Board has determined that the Variance requested is warranted.

FURTHER FINDINGS

Section 2: Administration, 3. Variances provides that the Board of Appeals may grant, upon appeal or upon petition, with respect to particular land or structure thereon, a variance from the terms of this Bylaw where the Board of Appeals finds:

1. Section 2.3 First Clause

Owing to circumstances relating to soil conditions, shape or topography of such parcel or to such structure, and especially affecting generally such land or structure but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of this Bylaw would involve substantial hardship financial or otherwise, to the appellant or petitioner and

The Board finds that there are circumstances regarding the soil condition, shape and topographic conditions unique to the lot and not generally affecting the CBD district. The lot is located immediately adjacent to the Neponset River. In most areas the river is completely underground as a result of development in the early 20th century. This situation results in saturated soils that are unfit for underground parking. As such, the parking garage is located at ground level, which in turn increases the building height approximately thirteen feet (13'). Noting that the requested variance is for twelve feet (12') it can be seen that the unique restrictions caused by the proximity of the Neponset River have created a problem for the development. The lot is unique in that the level of the ground water makes it prohibitive to park underground or otherwise lower the building. A letter from the Applicant's geotechnical consultant, Haley and Aldrich, was submitted during the public hearing which shows that ground water exists at approximately six feet (6') below the grade of the site. The level of the ground water is unique as it is a direct result of the proximity of the Neponset River. The existence of the ground water makes it prohibitive to lower the parking garage and therefore lower the height of the building

along Depot Road, the MBTA lot line, and along the driveway adjacent to Walpole Station. Further, there are environmental considerations for limiting deep excavations on the site. Further, the site will be the subject of an extensive clean-up before construction and further excavation and soils removal would be prohibitive. In order to comply with the literal terms of the Bylaw, the Applicant would be faced with placing the parking garage below the level of the Neponset River or redesigning the building to such an extent that it would be significantly less attractive, require other zoning relief, and potentially become uneconomic to build. Moreover, it would result in a design not consistent with the goal and objectives of the Central Business District, which include, "to provide for a center of business activity accessible by pedestrian travel, to provide a center for municipal and cultural activities, and to act as a landmark and symbol of the Town."

The Board additionally finds that the shape of the lot is unique in that it is an irregularly shaped lot. As the lot is not rectangular, the same forces the building to be both higher and closer to West Street in order to comply with setback requirements and remain an economically viable project.

The Board also references the height comparison submitted by the Applicant during the public hearing. As shown in the Applicant's testimony when the Bylaw was adopted setting the maximum building height for the CBD at 52', the same building constructed according to the then existing market conditions would have a height of 53'4". As such, the topographic conditions would account for the 1'4" in additional height and warranted a Variance. The same building now requires additional height to accommodate current market requirements. Thus, a literal enforcement of the Bylaw would require the Applicant to build a sub-standard building, which would be a substantial hardship. The Board further notes, as stated above, a redesign of this magnitude would make the building uneconomic.

Additionally, the Zoning By-Law itself imposes a requirement for commercial space on the first floor. This requirement also imposes practical constraints on the design of the building, as the commercial tenant space along West Street must be suitable for commercial tenants. As such, the height of the building along West street is several feet higher than it would be if the building were allowed to be solely residential. If the ceiling height of the commercial space and residential floors were dropped, the building would be more in conformance with the Zoning Bylaws, however it would likely be un-rentable and therefore remain vacant to the detriment of the Applicant and the Town. Therefore, this requirement is satisfied.

2. Section 2.3 Second Clause

That desirable relief may be granted without substantial detriment to the public good and

The Board finds that allowing the proposed development to be twelve feet (12') higher than otherwise allowed will not be a detriment to the public good. The design of the building is such that no significant shadows will result. During the public hearing, the Applicant submitted a shadow study which showed that the only impacts of the building height are on the MBTA land and the Walpole Station Business Complex. There are no impacts on the Historical Society Building, West Street, or any other churches, businesses, or commons. The shadow study shows that there is only a minimal difference between the impact of the requested building height vs. the allowed building height of fifty-two feet (52'). Additionally, the massing and scale of the proposed building will be entirely consistent with this location in the Central Business District. Moreover, the proposed building sits especially comfortably in the context of the adjacent mill building that will remain as the Walpole Station Business Complex, as shown in the perspective images provided with this Application and the owners of the Walpole Station Business Complex have specifically requested that massing adjacent to their building be reduced in favor of

additional massing on the other three frontages. Thus, rather than being a detriment, it is the Applicant's hope that the new structure will hopefully serve as a catalyst for similar development elsewhere in the downtown. As such, this requirement is met.

3. Section 2.3 Third Clause

Without nullifying or derogating from the intent and purpose of this Bylaw.

The Board finds that the purposes of the Zoning Bylaw include, "to encourage housing for persons of all income levels, to facilitate the adequate provision of transportation, prevention of blight, to support the economic wellbeing of the Town, and to encourage the most appropriate use of the land." In allowing the proposed project to be built as shown on the plans entitled: "Site Development Plans for 95 West Street, Walpole, MA" dated November 9, 2016 last revised 04-14-2017, drawn by Allen & Major Associates, Inc., 100 Commerce Way, Woburn, MA 01888, the Board will be furthering all of these purposes.

The Board also finds that as conditioned above, the building will maintain the character of the CBD and that the intent of the Bylaw is being followed.

It should be noted that the site is currently a vacant parking lot with two vacant buildings thereon. Moreover, the area is contaminated and the subject of a DEP ordered remediation. As such, the proposed development will remove a source of blight from the downtown area. On a positive note, the proposed mixed use building provides an attractive option to young professionals and older people who wish to live in Walpole but do not desire to maintain a home or do not wish to put up a down payment at this time. However, by adding 192 residential units, the building is providing a customer base for all downtown businesses.

As such, this project is completely in harmony with the purpose and intent of the Bylaw. Therefore, this requirement is satisfied.

PARKING STALL DEPTH AND AISLE WIDTH VARIANCE VOTE OF THE BOARD

A motion was made by Mr. Hiltz and seconded by Mr. DeCelle, that the Board grant John M. Corcoran & Co., LLC a Variance from Section 8 (Parking Regulations): 8 (Parking Lot Design): A (Parking Space and Aisle Dimensions): Table 8.8.A.1 (Parking Space and Aisle Dimensions) to allow a parking space depth of eighteen feet (18') where eighteen and ½ feet (18.5') are required and a minimum drive aisle width of twenty-four feet (24') where twenty-six feet (26') are required all as shown on the plan entitled: "Site Development Plans for 95 West Street, Walpole, MA" dated November 9, 2016 last revised 04-14-2017, drawn by Allen & Major Associates, Inc., 100 Commerce Way, Woburn, MA 01888.

The vote was 4-0-0 in favor (Zuker, DeCelle, Hiltz, Coffey voting); therefore, the Variance from Section 8.8.A is hereby granted.

REASONS FOR DECISION

It is the finding of the Board that the Applicant was able to meet the requirements of Section 2.3 to justify the requested Variance from the required parking stall depth and drive aisle width. The Board finds that strict adherence to the dimensional requirements is not justified and that the requested reductions are a result of unique circumstances, a literal enforcement of the Bylaw would cause undue hardship, and that the proposed parking layout does not cause a detriment to the public good or derogate from the intent and purpose of the Bylaw for the Central Business

District. Accordingly, the Board has determined that the Variance requested is warranted.

FURTHER FINDINGS

Section 2: Administration, 3. Variances provides that the Board of Appeals may grant, upon appeal or upon petition, with respect to particular land or structure thereon, a variance from the terms of this Bylaw where the Board of Appeals finds:

1. Section 2.3 First Clause

Owing to circumstances relating to soil conditions, shape or topography of such parcel or to such structure, and especially affecting generally such land or structure but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of this Bylaw would involve substantial hardship financial or otherwise, to the appellant or petitioner and

The Board finds that the locus has a unique shape, not common to the district generally as it is not a rectangular lot, rather an irregular shape with angled property lines. The lot is bordered to the north and west by MBTA property, which is significantly elevated above the level of the lot. The lot is bordered to the east by the remainder of the Walpole Station business offices, and to the south by West Street. Thus, the topography and existing mill complex create unique constraints on the layout of parking aisles and stalls. With regard to the surface parking area, the relief requested is a direct result of the shape of the lot. Parking spaces are proposed as 18' deep and the drive aisle at the rear of the site is 24' wide. The shape of the lot, the elevation and location of the MBTA property, and the proximity of the Walpole Mill Building on the lot's east side, dictate that the parking spaces and aisles be adjusted in size. As such, compliance with the required parking dimensional standards in Section 8.8.A.1 would result in substantial hardship.

Additionally, a larger parking area would result, detracting from the appearance and utility of the proposed building. The business plan calls for 192 dwelling units coupled with ground floor commercial space. Requiring deeper parking spaces and wider aisles on the outdoor parking to the north of the building would result in a significant reduction in available parking. Accordingly, the building itself either would have to be redesigned or additional parking would be required closer to the Neponset river. In either case, the financial hardship of these changes would make the project uneconomic as it is currently conceived. Accordingly, this requirement is satisfied.

2. Section 2.3 Second Clause

That desirable relief may be granted without substantial detriment to the public good and

The Board finds that the parking lot in question will be for the use of the residents and employees of the building only and will be regulated by permit. Moreover, the proposed dimensions are appropriate and common for this type of development. At the Board's request, the Applicant's Engineer and Architect determined that the building could be shifted towards West Street and the foot print could be slightly reduced. The overall result is that the northern (to rear of the building) drive aisle can be widened from the original dimension of twenty-two feet (22') to twenty-four feet (24'). The Board also notes that the driveway between the end of the parking lot and the connection to the MBTA property at Depot Road is now twenty-four feet (24') feet as well. As this dimension is the standard width for a two-way driveway in Walpole and, in fact, the maximum curb cut allowed there is no reason to restrict the traffic patterns. Moreover, the

driveway does not require any dimensional relief from the Board. The change in drive aisle width as well as the change to the driveway are shown on the revised plans submitted to the Board. The revised plans also address the Board's concerns about the pedestrian access to the MBTA station. As shown on plans entitled: "Site Development Plans for 95 West Street, Walpole, MA" dated November 9, 2016 last revised 04-14-2017, drawn by Allen & Major Associates, Inc., 100 Commerce Way, Woburn, MA 01888, the main pedestrian access to the train station is at the rear of the building separate away from the parking lot. Also, the Applicant is proposing a sidewalk in that area to facilitate the access from the building to Depot Road. As described during the public hearing, pedestrians exit the building, go down a short flight of stairs, and then take the existing sidewalk along the driveway to Depot Road. As such, there is no reason for pedestrians to be in the driveway and this safety concern has been addressed to the Board's satisfaction. Therefore, there is no detriment to the public good and this requirement is satisfied.

3. Section 2.3 Third Clause

Without nullifying or derogating from the intent and purpose of this Bylaw.

The Board finds that the parking dimensions as proposed enable the parking areas serving the Residences at Walpole Station as well as the Walpole Station business offices to be more effectively laid out. The 9' x 18' parking stalls and 24' drive aisle are common dimensions for parking areas throughout eastern Massachusetts. As such, the requested relief allows the Applicant to construct its parking areas in a manner consistent with the general practice for the state. The parking areas are designed in accordance with smart growth principles and engender a more cohesive downtown design. As part of the Developmental Review Process, the Town was very clear that it desired this project to be tied into and cohesive with the rest of the center. A key component is siting the parking in areas to allow this goal to be met. Accordingly, this Variance, furthers the purposes of facilitating adequate transportation, supporting the economic well-being of the Town, and encouraging the most appropriate use of the land. Thus, this requirement is met.

CONSISTENCY

This decision is consistent with the purpose and intent of the Zoning Bylaw.

Said Special Permits are granted pursuant to Massachusetts General Law c. 40A § 9 which provides in pertinent part as follows: "...Zoning ordinances or by-laws shall provide that a special permit granted under this section shall lapse within a specified period of time, not more than two years, which shall not include such time required to pursue or await the determination of an appeal referred to in section seventeen, from the grant thereof, if a substantial use thereof has not sooner commenced except for good cause or, in the case of permit for construction, if construction has not begun by such date except for good cause."

Massachusetts General Laws c. 40A, §11 provides in part as follows: "A special permit, or any extension, modification or renewal thereof, shall not take effect until a copy of the decision bearing the certification of the city or town clerk that 20 days have elapsed after the decision has been filed in the office of the city or town clerk and either that no appeal has been filed or the appeal has been filed within such time, or if it is a special permit which has been approved by reason of the failure of the permit granting authority or special permit granting authority to act thereon within the time prescribed, a copy of the application for the special permit-accompanied by the certification of the

city or town clerk stating the fact that the permit granting authority or special permit granting authority failed to act within the time prescribed, and whether or not an appeal has been filed within that time, and that the grant of the application resulting from the failure to act has become final, is recorded in the registry of deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The person exercising rights under a duly appealed special permit does so at risk that a court will reverse the permit and that any construction performed under the permit may be ordered undone. This section shall in no event terminate or shorten the tolling, during the pendency of any appeals, of the 6 month periods provided under the second paragraph of section 6. The fee for recording or registering shall be paid by the owner or applicant."

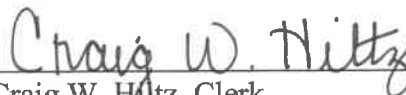
Said Variances are granted pursuant to Massachusetts General Laws c. 40A, s. 10 which provides in pertinent part as follows: "If the rights authorized by a Variance are not exercised within one year of the date of grant of such Variance such rights shall lapse; provided, however, that the permit granting authority in its discretion and upon written application by the grantee of such rights may extend the time for exercise of such rights for a period not to exceed six months; and provided, further, that the application for such extension is filed with such permit granting authority prior to the expiration of such one year period. If the permit granting authority does not grant such extension within thirty (30) days of the date of application thereof, and upon the expiration of the original one year period, such rights may be reestablished only after notice and a new hearing pursuant to the provisions of this section."

Massachusetts General Laws c. 40A, s. 11 provides in pertinent part as follows:

"...No Variance or Special Permit, or any extension, modification or renewal thereof, shall take effect until a copy of the decision bearing the certification of the town or city clerk that twenty days have elapsed after the decision has been filed in the office of the city or town clerk and no appeal has been filed or that if such appeal has been filed, that it has been dismissed or denied, is recorded at the registry of deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The fee for recording or registering shall be paid by the owner or applicant."

APPEALS FROM THIS DECISION, IF ANY, SHALL BE MADE PURSUANT TO MASSACHUSETTS GENERAL LAWS CHAPTER 40A, SECTION 17, AND SHALL BE FILED WITHIN TWENTY DAYS AFTER THE DATE OF FILING OF THE NOTICE OF DECISION IN THE OFFICE OF THE CITY OR TOWN CLERK.

WALPOLE ZONING BOARD OF APPEALS


Craig W. Hiltz, Clerk

CH/am

cc:	Town Clerk	Engineering	Planning Board	Applicant
	Board of Selectmen	Building Inspector	Conservation Commission	Abutters

This decision was made on May 3, 2017 and filed with the Town Clerk on May 17, 2017.